

AMENDED IN ASSEMBLY MAY 3, 2005

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 478

**Introduced by Assembly Member Lieber
(Coauthor: Assembly Member Leno)**

February 16, 2005

An act to amend Sections 3419, 3423, and 6030 of, and to add ~~Section 3424~~ *Sections 3424 and 5007.7* to, the Penal Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 478, as amended, Lieber. Female inmates.

Existing law provides that an inmate who gives birth after her receipt by the Department of Corrections may be declared eligible to participate in a community treatment program that provides for the release of the mother and child to a public or private facility in the community suitable to their needs.

This bill would require any community treatment program in which such an inmate participates to include prenatal care, access to prenatal vitamins, childbirth education, and infant care. This bill would also require the department to establish minimum standards for pregnant inmates who are not eligible for the program including necessary nutrition and vitamins, information and education, and regular dental cleanings.

Existing law provides that any inmate who would give birth to a child during her term of imprisonment may be temporarily taken to a hospital outside the prison for childbirth.

This bill would provide that *pregnant inmates taken to a hospital outside the prison shall be transported in the least restrictive way possible. This bill would also provide that the inmate shall not be shackled by the wrists, ankles, or both during labor, including during transport to the hospital, during delivery, and while in recovery after giving birth, except as specified.*

Existing law requires the department to establish minimum standards for local detention facilities, as specified.

This bill would provide that those standards shall require that inmates who are received by the facility while they are pregnant are provided, at a minimum, necessary nutrition and vitamins, information and education, and regular dental cleanings. This bill would also require that these standards provide that at no time shall a woman who is in labor be shackled by the wrists, ankles, or both, including during transport to the hospital, during delivery, and while in recovery after giving birth, *except as specified.*

Because this bill would require local officials to provide additional services, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3419 of the Penal Code is amended to
- 2 read:
- 3 3419. (a) In the case of any inmate who gives birth after her
- 4 receipt by the Department of Corrections, the department shall,
- 5 subject to reasonable rules and regulations promulgated pursuant
- 6 to Section 3414, provide notice of, and a written application for,
- 7 the program described in this chapter, and upon her request,
- 8 declare the inmate eligible to participate in a program pursuant to
- 9 this chapter if all of the requirements of Section 3417 are met.

(b) The notice provided by the department shall contain, but need not be limited to, guidelines for qualification for, and the timeframe for application to, the program and the process for appealing a denial of admittance.

(c) Any community treatment program, in which an inmate who gives birth after her receipt by the Department of Corrections participates, shall include, but is not limited to, the following:

(1) Prenatal care.

(2) Access to prenatal vitamins.

(3) Childbirth education.

(4) Infant care.

SEC. 2. Section 3423 of the Penal Code is amended to read:

3423. Any woman inmate who would give birth to a child during her term of imprisonment may be temporarily taken to a hospital outside the prison for the purposes of childbirth, and the charge for hospital and medical care shall be charged against the funds allocated to the institution. The inmate shall not be shackled by the wrists, ankles, or both during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, *except as provided in Section 5007.7*. The board shall provide for the care of any children so born and shall pay for their care until suitably placed, including, but not limited to, placement in a community treatment program.

SEC. 3. Section 3424 is added to the Penal Code, to read:

3424. A woman who is pregnant during her incarceration and who is not eligible for the program described in this chapter shall have access to complete prenatal health care. The department shall establish minimum standards for pregnant inmates in its custody who are not placed in a community treatment program including all of the following:

(a) A balanced, nutritious diet approved by a doctor.

(b) Prenatal information and health care, including, but not limited to, ~~immediate~~ access to necessary vitamins *as recommended by a doctor*.

(c) Information pertaining to childbirth education and infant care.

(d) Regular dental cleanings.

SEC. 4. Section 5007.7 is added to the Penal Code, to read:

1 5007.7. *Pregnant inmates temporarily taken to a hospital*
2 *outside the prison for the purposes of childbirth shall be*
3 *transported in the least restrictive way possible, consistent with*
4 *the legitimate security needs of each inmate. Upon arrival at the*
5 *hospital, once the inmate has been declared by the attending*
6 *physician to be in active labor, the inmate shall not be shackled*
7 *by the wrists, ankles, or both, unless deemed necessary for the*
8 *safety and security of the inmate, the staff, and the public.*

9 ~~SEC. 4.~~

10 SEC. 5. Section 6030 of the Penal Code is amended to read:

11 6030. (a) The Board of Corrections shall establish minimum
12 standards for local detention facilities by July 1, 1972. The Board
13 of Corrections shall review such standards biennially and make
14 any appropriate revisions.

15 (b) The standards shall include, but not be limited to, the
16 following: health and sanitary conditions, fire and life safety,
17 security, rehabilitation programs, recreation, treatment of persons
18 confined in local detention facilities, and personnel training.

19 (c) Such standards shall require that at least one person on
20 duty at the facility is knowledgeable in the area of fire and life
21 safety procedures.

22 (d) The standards shall also include requirements relating to
23 the acquisition, storage, labeling, packaging, and dispensing of
24 drugs.

25 (e) The standards shall require that inmates who are received
26 by the facility while they are pregnant are provided all of the
27 following:

28 (1) A balanced, nutritious diet approved by a doctor.

29 (2) Prenatal information and health care, including, but not
30 limited to, ~~immediate~~ access to necessary vitamins *as*
31 *recommended by a doctor.*

32 (3) Information pertaining to childbirth education and infant
33 care.

34 (4) Regular dental cleanings.

35 (f) The standards shall provide that at no time shall a woman
36 who is in labor be shackled by the wrists, ankles, or both
37 including during transport to a hospital, during delivery, and
38 while in recovery after giving birth, *except as provided in Section*
39 *5007.7.*

1 (g) In establishing minimum standards, the Board of
2 Corrections shall seek the advice of the following:

3 (1) For health and sanitary conditions:

4 The State Department of Health Services, physicians,
5 psychiatrists, local public health officials, and other interested
6 persons.

7 (2) For fire and life safety:

8 The State Fire Marshal, local fire officials, and other interested
9 persons.

10 (3) For security, rehabilitation programs, recreation, and
11 treatment of persons confined in local detention facilities:

12 The Department of Corrections, the Department of the Youth
13 Authority, local juvenile justice commissions, local correctional
14 officials, experts in criminology and penology, and other
15 interested persons.

16 (4) For personnel training:

17 The Commission on Peace Officer Standards and Training,
18 psychiatrists, experts in criminology and penology, the
19 Department of Corrections, the Department of the Youth
20 Authority, local correctional officials, and other interested
21 persons.

22 ~~SEC. 5.~~

23 *SEC. 6.* If the Commission on State Mandates determines that
24 this act contains costs mandated by the state, reimbursement to
25 local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.